

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

ROBERT BURKS,

Case No. 19-CV-1448 (WMW/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MN DISABILITY LAW CENTER,

Defendant.

In an order dated August 27, 2019, this Court ordered Plaintiff Robert Burks to pay the \$400.00 filing fee for this action within 30 days—that is, by September 26, 2019. See Order 1–2, ECF No. 9. The Court stated that if Burks failed to pay the filing fee within that time, the Court would recommend that this action be dismissed without prejudice for failure to prosecute. See *id.*; Fed. R. Civ. P. 41(b).

That deadline has now passed, and Burks has not paid the filing fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: October 4, 2019

s/David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).